

Attorney Docket No: 1L-11030

Fenwick Ref: 23540-1010

USSN: 10/630,536

REMARKS**STATUS OF THE CLAIMS**

Claims 1-7 were pending in this application. Claims 1-3 have been cancelled herein. New claims 8-17 have been added. Following entry of the amendments claims 4-17 will be pending and at issue.

SUPPORT FOR AMENDMENTS TO THE CLAIMS

New claims 8-17 have been added to more clearly define Applicant's invention. Support can be found throughout the specification as filed, e.g., paragraphs 14 and 15 and the claims as originally filed, and, e.g., the sequence listing.

The amendments to the claims therefore add no new matter and entry is respectfully requested.

ELECTION/RESTRICTION REQUIREMENT

In the Office Action, the Examiner restricted the claims to two groups as follows.

I. Claims 1-3 (compositions)

II. Claims 4-7 (methods).

In response, Applicant elects Group I without traverse; new claims 8-16 should join Group 1 (compositions comprising Yersinia pestis amplicons and fragments thereof, e.g., primers and probes); claims 1-3 have been cancelled herein.

In addition, the Examiner required election of a specific amplicon sequence and a specific set of primer pairs and probe.

Applicant traverses the requirement to elect a single Amplicon as Applicant believes this requirement is moot in view of the amended claims. New claims 8-10 are drawn to at least two Amplicons, i.e., SEQ ID NOS:4 and 8); new claims 11-16 are drawn to oligonucleotides (e.g., primer/probe sets) specific to at least two Amplicons, i.e., SEQ ID NOS:4 and 8.

Applicant believes that the pending claims should be examined as described in MPEP 803.04 under the heading "EXAMPLES OF NUCLEOTIDE SEQUENCE CLAIMS" in a manner

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similar to Example B. Example B is a claim that reads "a combination of DNA fragments comprising SEQ ID Nos. 1-1,000." The MPEP describes examination of this claim as follows:

Applications claiming only a combination of nucleotide sequences, such as set forth in example (B), will generally not be subject to a restriction requirement. The presence of one novel and nonobvious sequence within the combination will render the entire combination allowable. The combination will be searched until one nucleotide sequence is found to be allowable. The order of searching will be chosen by the examiner to maximize the identification of an allowable sequence. If no individual nucleotide sequence is found to be allowable, the examiner will consider whether the combination of sequences taken as a whole renders the claim allowable.

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CONCLUSION

Consideration of the claims is respectfully requested, and a notice of allowance is earnestly solicited. If the Examiner has any questions concerning this Response, the Examiner is invited to telephone Applicant's representative at (415) 875-2316.

Respectfully submitted,
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Dated:

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